

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HENRY MONTGOMERY,

Petitioner,

v.

VINCENT S. CULLEN,

Respondent.

No. C 10-1625 LHK (PR)

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

(Docket No. 6)

Petitioner has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has requested appointment of counsel in this action because he is a layman to the law and because of his prison job assignments and lockdowns. However, the Sixth Amendment's right to counsel does not apply in habeas corpus actions. *Knaubert v. Goldsmith*, 791 F.2d 722, 728 (9th Cir. 1986). While 18 U.S.C. § 3006A(a)(2)(B) authorizes a district court to appoint counsel to represent a habeas petitioner if "the court determines that the interests of justice so require," the courts have made appointment of counsel the exception rather than the rule. Appointment is mandatory only when the circumstances of a particular case indicate that appointed counsel is necessary to prevent due process violations. *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986).

Petitioner has thus far been able to adequately present his claims for relief. Respondent has been ordered to produced the state records. No evidentiary hearing appears necessary in this case,

1 nor are any other extraordinary circumstances apparent. At this time, appointment of counsel is not  
2 mandated, and the interests of justice do not require appointment of counsel. Accordingly, the  
3 Plaintiff's request is DENIED. This denial is without prejudice to the Court's *sua sponte*  
4 reconsideration should the developments of this case dictate otherwise.

5 IT IS SO ORDERED.

6 DATED: 11/5/2010

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LUCY H. KOH  
United States District Judge

United States District Court  
For the Northern District of California